

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA and
THE STATE OF WISCONSIN,

Plaintiffs,

v.

Case No. 10-C-910

NCR CORPORATION, *et al.*,

Defendants.

**ORDER GRANTING UNITED STATES' MOTION *IN LIMINE* TO EXCLUDE
OPINIONS AND TESTIMONY OF DEFENDANTS' PROPOSED
REMEDY CHALLENGE EXPERTS**

The United States filed a motion *in limine* seeking clarification that the Court will not accept evidence from experts to support Defendants' challenges to the selected cleanup remedy for the Lower Fox River and Green Bay Superfund Site. On August 30, 2012, the Court denied the Defendants' motions to supplement the administrative record in this case with evidence from such experts. Dkt. 498. Two of the Defendants, NCR Corporation and Menasha Corporation, nonetheless served reports of such experts on September 7, 2012 – likely because NCR had sought reconsideration of the Court's August 30 ruling. Dkt. 500. The report of NCR's proposed expert, Jeffrey Zelikson, was submitted to the Court with NCR's motion for reconsideration (Dkt. 501-1); the report of Menasha's proposed expert, Paul Fuglevand, was attached to the United States' motion *in limine*. Both experts attack the methods that the Environmental Protection Agency and the Wisconsin Department of Natural Resources used to devise and document remedy cost estimates for the Site.

The Court finds that the United States' motion *in limine* should be granted for the reasons stated in the August 30, 2012, Decision and Order denying the Defendants' motions to supplement the administrative record and for the additional reasons set forth in the motion *in limine*. Accordingly, the United States' motion *in limine* is **GRANTED** and the Court will not accept opinions or testimony from Mr. Zelikson, Mr. Fuglevand, or any other expert to support remedy challenge arguments that Defendants may advance at the summary judgment stage or at trial in this case.

SO ORDERED this _____ day of _____, 2012.

William C. Griesbach
United States District Judge